

REMARKS

Applicants have filed herewith a Revocation and New Power of Attorney and request changing the attorney of record and the correspondence address.

This document is filed in reply to the office action dated November 25, 2003 ("Office Action"). Applicants have amended the specification to update the deposit information of the hybridomas described in the application. Applicants have also amended claim 2 to replace the term "3H5" with "9A10C3." Support for "9A10C3" can be found at, e.g., page 6, lines 6-7. At the Examiner's suggestion, Applicants have further amended claims 1 and 2 to include the access numbers of the claimed hybridomas 3H5 and 9A10C3 (i.e., "CCTCC C200112" and "CCTCC C200113").¹ Applicants have narrowed claim 23 by replacing the phrase "allergies, autoimmunity diseases" with "asthma," and deleted the phrase "and any hemo-disease and cancer caused by viral infection." Applicants have finally amended claims 1-4, 6-7, 11-13, 15-16, and 23 to promote clarity, and cancelled claim 5, necessitating the dependency change of claims 6-8.

Claims 1-4, and 6-40 are pending. Among them, claims 24-40 have been withdrawn from further consideration for being drawn to a non-elected invention. Claims 1-4 and 6-23 are now under examination. Reconsideration of this application is requested in view of the following remarks:

Claim objection

The Examiner rejected claim 4 for informality. Applicants have rectified this deficiency.

Rejection under 35 U.S.C. § 112, second paragraph

The Examiner rejected claims 1-8 and 11-23 for indefiniteness. It is her position that the name "hybridoma 3H5" recited in independent claims 1, 2, and 11 appears as the name of antibodies in prior art. See the Office Action, page 3, lines 10-20. She further rejected claims 1-

¹ Applicants have submitted herewith a copy of two official deposit documents for the two hybridomas, which were deposited with China Center for Type Culture Collection (CCTCC) under the term of the Budapest Treaty.

2, 6-7, 11-12, and 15-16 on less significant grounds. Applicants have amended the claims based on the Examiner's suggestions.

Rejection under 35 U.S.C. § 112, first paragraph

The Examiner rejected claims 1-8 and 11-23 for lack of enablement. See the Office Action, page 4, lines 24-27. According to the Examiner,

The specification does not provide a repeatable method for obtaining hybridoma 3H5 or 9A10C3, and [the hybridomas do] not appear to be ... readily available material[s] even though [they were] deposited The reasons [that] this deposit does not satisfy the requirement of 35 U.S.C. § 112, first paragraph is that the address of the depository is needed as is a declaration or statement including that all restriction imposed by the depository on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent in accordance with the requirements set forth [in 37 CFR 1.803 - 1.809]

Applicants have deposited the two hybridomas with the China Center for Type Culture Collection (CCTCC) under the term of the Budapest Treaty, and submitted herewith (1) a copy of two official deposit documents, and (2) a declaration by the attorney of record, stating that all restrictions imposed by the depositor on the availability to the public of the deposited hybridomas will be irrevocably removed upon the granting of a patent. Applicants have also amended the specification to include the address of the depository. It is submitted that the rejection has been overcome and should be withdrawn.

The Examiner further rejected claim 11-23 for lack of enablement. As correctly pointed out by the Examiner, the specification enables a kit for detection of several DcR3-associated diseases: i.e., nasopharyngeal cancer, head and neck cancer, lung cancer, breast cancer, colon cancer, transitional epithelial cancer, hepatic cancer, esophageal cancer, leukemia, lupus erythematosus, hepatitis B, acquired immunity deficiency syndrome, and asthma. On the other hand, it is the Examiner's position that the specification does not reasonably provide enablement for detection of allergies, autoimmunity diseases (other than AIDS), and any hemo-disease and cancer caused by viral infection. See the office action, page 6, lines 11-19. Applicants have

amended claims 11 and 23 to exclude these diseases² and submit that the rejection has been overcome by the amendments.

The Examiner finally rejected claim 5 for lack of enablement. See the office action, page 7, lines 26-28. Applicants have cancelled this claim and thereby render the rejection moot.

CONCLUSION

Applicant submits that grounds for the rejections asserted by the Examiner have been overcome, and that claims, as pending, define subject matter that is definite and enabled. On this basis, it is submitted that allowance of this application is proper, and early favorable action is solicited.

Please apply any charges to deposit account 06-1050, referencing attorney docket 12875-004001.

Respectfully submitted,

Date: 2-24-04

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² Applicants have (1) amended claim 11 to delete the phrase "-associated diseases" and (2) amended claim 23 to replace the phrase "allergies, autoimmunity diseases" with "asthma" and delete the phrase "and any hemo-disease and cancer caused by viral infection."